

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RONALD ROLLINGS,

Plaintiff,

v.

GOVERNOR CHRISTINE GREGIORE
et al.,

Defendants.

Case No. C06-5047 FDB


ORDER ADOPTING
REPORT AND
RECOMMENDATION AND
DISMISSING CLAIM WITH
PREJUDICE

The magistrate Judge recommends that this 42 U.S.C. § 1983 Civil Rights action be dismissed with prejudice for failure to state a cause of action under Section 1983. Plaintiff challenges the ban on using or possessing tobacco products in prison by inmates. As detailed by the Magistrate Judge, an inmate possesses no constitutional right to buy or use tobacco products while incarcerated. Plaintiff's objections to the Report and Recommendation do not persuade this Court otherwise. The Court, having reviewed Plaintiffs' complaint, the Report and Recommendation of Magistrate Judge J. Kelley Arnold, objections to the Report and Recommendation, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) This action is **DISMISSED** prior to service for failure to state a claim. This dismissal counts as a strike pursuant to 28 U.S.C. 1915 (g).
- (3) Clerk is directed to send copies of this Order to plaintiff, counsel for any defendants

1 who have appeared, and to the Hon. J. Kelley Arnold.

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3 DATED this 8th day of June, 2006.

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8 FRANKLIN D. BURGESS
9 UNITED STATES DISTRICT JUDGE
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